

## **TITLE 326 AIR POLLUTION CONTROL BOARD**

### **LSA Document #06-284**

#### **SUMMARY/RESPONSE TO COMMENTS FROM THE SECOND COMMENT PERIOD**

The Indiana Department of Environmental Management (IDEM) requested public comment from December 20, 2006, through January 19, 2007, on IDEM's draft rule language. IDEM received comments from the following parties:

NiSource Corporate Services (NCS)

Following is a summary of the comments received and IDEM's responses thereto.

*Comment:* The preamble language for the leak test procedure of the proposed rule specifically mentions several fuel system components, gasoline, gasoline vapor, and other VOC emissions with respect to the leak test. However, this specificity to VOCs does not appear to carry over to the test section language. We recommend consideration of adding clarifying language that would specify that the leaks for which the vehicle will be tested include the types of leaking fluids that would lead to a test failure. We recommend these fluids for which a vehicle could be failed be consistent with the fluids for which the U.S. EPA emissions model, Mobile 6.2, bases its assumptions of leaking fluids contributing to 70% of the mobile on-road evaporative emissions inventory. The additional clarity regarding the fluids could have several benefits. The first is the potential to ease vehicle owner apprehension about the testing procedure. The second is that it may assist owners with performing their own preventative maintenance, which in turn could reduce emissions in advance of any test failure. (NCS)

*Response:* Vehicles that have excessive evaporative and/or liquid leaks are relatively easy to identify. However, leaks can originate from a number of points on a vehicle and identifying the exact location of the leak(s) is not as easy to identify. It should also be noted that the U.S. EPA has not yet defined inspection procedures nor does Mobile 6.2 contain design commands that address liquid leak identification. The locations listed in the preamble language are only included for informational purposes to provide examples of locations where these leaks may occur.

It should also be noted that the recently finalized Lake and Porter counties inspection and maintenance contract requires the current contractor (Environmental Systems Products) in partnership with the State to develop and implement procedures for identifying vehicles that have excessive evaporative and/or liquid leaks. Phase I (March 1, 2007-September 31, 2007) will consist of a six-month development phase during which the test procedures to identify these vehicles will be developed and refined in the inspection lanes of at least one testing facility. If Phase I is deemed successful, the contractor will begin testing all 1995 and older model year vehicles at all the testing stations on October 1, 2007.

*Comment:* We understand the automobile insurance industry and the Indiana Bureau of Motor Vehicles (BMV) may have specific definitions, qualifications, and limitations pertaining to the types of vehicles IDEM intends to exempt from emission testing. To the extent the proposed rule adds definitions to these vehicles, i.e. antique vehicles, show vehicles, and ceremonial vehicles, we recommend the IDEM work with both the insurance industry and the BMV to provide consistency in the terminology. This would likely help minimize vehicle owner's confusion that could result from inconsistent terminology. Please note the proposed definitions contain language that may yield unintended exclusions and may benefit from additional clarification. For example, as currently worded, the proposed definition of "ceremonial vehicle" may be too narrow to capture the range of people that own or operate this type of vehicle. Also, the inclusion of the term "exclusively" may unintentionally exclude vehicles from this category unless they are towed to the parade site. (NCS)

*Response:* IDEM is not aware of any specific definitions, qualifications, or limitations that the automobile insurance industry or the Indiana BMV has pertaining to "show vehicles" or "ceremonial vehicles". The BMV does have specific eligibility requirements to plate a vehicle as an "antique". A passenger car, truck, recreational vehicle or motorcycle with a gross vehicle weight rating of less than or equal to eleven thousand (11,000) pounds and 25 years or older may be eligible to be plated as an "antique vehicle" with the BMV. Additional language has been added to 13-1.1-2(d)(10) to provide consistency in terminology of "antique vehicles" with the BMV.

Ceremonial vehicles are not currently defined in the state or the federal regulations. Based on further discussions between IDEM and the current contractor (Environmental Systems Products) concerning "ceremonial vehicles", the contractor is not aware of any ceremonial vehicle ever showing up at the testing facilities to be tested. Since ceremonial vehicles are not an issue at the testing facilities, are not defined in the state or federal regulations, and only a handful of these may exist in Lake and Porter Counties, IDEM does not believe "ceremonial vehicles" need to be included in this rulemaking and has removed that category of vehicle from the rule. No revisions have been made to the "show vehicle" definition since IDEM believes it adequately defines this type of vehicle.

*Comment:* The language of 326 IAC 13-1.1-1(9)(B) appears to be a circular reference as it includes the term it is attempting to define. It may be advisable to reference employees of the entity defined in 326 IAC 13-1.1-1(9)(A). (NCS)

*Response:* IDEM concurs and has revised the draft rule language accordingly.

*Comment:* To avoid confusion we recommend replacing "twice a year" with "twice a calendar year" in 326 IAC 13-1.1-1(32)(A) and (B). We also recommend clarification of "registration or entrance forms" so it is understood that these are the car show registration or entrance forms. (NCS)

*Response:* IDEM concurs and has revised the draft rule language accordingly.

*Comment:* The language of 326 IAC 13-1.1-1(32)(D) is a compliance requirement. We believe it would be more appropriate and clearer to affected parties to move a compliance condition to a compliance section of the rule. In addition, the requirement to present the vehicle every two years should be clarified as calendar years. It should also be synchronized with the normal vehicle registration cycle to provide more uniform periods between verifications and help balance work load at the emission test site. (NCS)

*Response:* IDEM does not believe that the language contained in 326 IAC 13-1.1-1(32)(D) is a compliance requirement. This language has been included to clarify the exemption criteria a vehicle must continue to meet to be considered a “show vehicle”. If a vehicle successfully meets the criteria, the applicable vehicle must be presented at a Clean Air Car Check vehicle emission test site within two years of the date of each of its future registration expiration anniversary dates. No revisions have been made to this language.

*Comment:* We recommend the addition of “GVWR” after “pounds” in 326 IAC 13-1.1-2(d)(1) to be consistent with use GVWR in the definitions section. (NCS)

*Response:* IDEM concurs and has revised the draft rule language accordingly.